

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Bessie L. Parker,)	
)	
Plaintiff,)	Civil Action No. 9:18-2551-RMG
)	
vs.)	
)	
Andrew M. Saul, Commissioner)	
of Social Security,)	ORDER
)	
Defendant.)	
)	
_____)	

This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff’s application for Disability Insurance Benefits (“DBI”) and Supplemental Security Income (“SSI”). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation (“R & R”) on November 21, 2019, recommending that the decision of the Commissioner be reversed and remanded to the agency because there was not substantial evidence to support the Administrative Law Judge’s finding that Plaintiff’s IQ score did not meet the requirements of Listing 12/05(c) and the Administrative Law Judge failed to weigh the full record regarding Plaintiff’s adaptive functioning. (Dkt. No. 30 at 4-14). The Commissioner has advised the Court that he does not intend to file objections to the R & R. (Dkt. No. 31).¹

¹ The Magistrate Judge ably details the Administrative Law Judge’s dubious grounds for discounting the evaluations and findings of Dr. Craig Young and Dr. Robin Moody and the reliance on the opinions of non-examining in-house chart reviewers who did not have access to Dr. Young’s findings, including his critical IQ test results. On remand, the Court expects a

The Court has reviewed the R & R and the record evidence and finds that the Magistrate Judge has ably addressed the factual and legal issues in this matter. Therefore, the Court **ADOPTS** the Report and Recommendation as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner for further proceedings consistent with this order. In light of the protracted nature of the administrative processing of this matter, exacerbated by the Social Security Administration's misplacement of Plaintiff's appeal and record, the Court directs that an administrative hearing be held in this matter within 120 days of this order, a final decision by the Administrative Law Judge within 30 days thereafter, and a final review by the Appeals Council, if necessary, within 60 days after the decision of the Administrative Law Judge.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Judge

Charleston, South Carolina
December 11, 2019

proper respect for the mandates of the Treating Physician Rule and the duty of the Commissioner to weigh all of the record evidence regardless whether it produces a result different than that recommended by the Social Security staff.